STATE OF CALIFORNIA -BUSINESS, TRANSPORTATION AND HOUSING AGENCY GRA vernor

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NOTICE OF FUNDING AVAILABILITY (NOFA)
MULTIFAMILY HOUSING PROGRAM – ROUND II

February 23, 2001

(1) Introduction. The California Department of Housing and Community Development (HCD) is pleased to announce the availability of up to $60 million in funding for the Multifamily Housing Program. These funds are available as permanent financing for affordable multifamily rental and transitional housing developments. Applications are due in HCD's office by 5:00 p.m. on March 30, 2001. HCD expects to issue commitments to successful applicants in late May, 2001, prior to the application due date for the second funding round of the California Debt Limit Allocation Committee (CDLAC) .

The Multifamily Housing Program (MHP) is a streamlined, omnibus financing program for affordable multifamily housing developments. It was established by SB 1121 (Alarcon), which created Chapter 6.7, commencing with Section 50675, of the Health and Safety Code. It currently operates under guidelines that are being amended for this NOFA. The amended guidelines will be available on HCD's web site at www.hcd.ca.gov by March 1, 2001. (All section references in this NOFA refer to the amended guidelines unless otherwise noted.) The application form will be available on this site on or about March 1 as well. Application workshops are scheduled as follows:

March 6, 2001	Mosley-Salvatori Conference Room 637 South Lucas Street, Los Angeles	9:00 – 12:00
March 7, 2001	San Diego State Building 1350 Front Street, Room B-107, San Diego	9:00 – 12:00
March 8, 2001	Hiram Johnson State Building 455 Golden Gate Avenue, Auditorium, San rancisco	9:00 – 12:00
March 9, 2001	HCD Headquarters 1800 Third Street, Room 183, Sacramento	9:00 – 12:00

(2) Program Summary. MHP provides low-interest loans to developers of affordable housing. MHP funds available under this NOFA may be used for multifamily rental and transitional housing projects involving new construction, rehabilitation, acquisition and rehabilitation, or conversion of nonresidential structures. HCD expects MHP funds to be leveraged with other resources, including local government funds, the federal Continuum of Care programs, 4% low-income housing tax credits, and private debt financing.

Under this NOFA, projects using 9% tax credits are ineligible. HCD plans to issue a subsequent NOFA offering MHP funds to write down rents for projects that have received reservations of 9% tax credits. At this point, it does not plan to make MHP funds available for 9% projects that require them for project feasibility.

(3) Revisions for Round II. Some of the more significant changes to the program made for this second funding round include:

- addition of a requirement that projects have not commenced construction at time of application;
- clarification of the rules applicable to shared living projects and those receiving rental subsidies;
- clarification that the frail elderly do not qualify as a special needs population, unless they qualify by virtue of membership in some other group;
- modification of the requirement that all applicants have previous development experience;
- elimination of the option to compute the allowable loan amount based on the gap resulting from switching from 9% to 4% tax credits;
- addition of a limitation on the number of "restricted" units that are not also "assisted" units, and addition of a requirement that "restricted" units be subject to the program's cash flow limitations;
- modification of the rules applicable to deferred developer fees;
- reduction in the developer fees allowable for HUD 202 and 811 projects;
- enlargement of the list of geographic areas automatically receiving full need points for family projects;
- elimination of bonus points for preservation projects, and awarding of full family and special needs points to projects of this type;
- limited modification of the way experience points are scored for small special needs projects;
- use of a less stringent formula for evaluating leverage for rural projects;
- adoption of a more gradated scale for assigning readiness points.

Please see the amended guidelines for the specific provisions reflecting these and other changes.

(4) Eligible Projects. Projects must qualify as rental housing developments, as defined in Section 101, and meet the requirements of Section 102. They must have, among other things, five or more dwelling units, and may be operated as permanent or transitional housing. They are ineligible if construction has commenced, or if the project is already fully funded. They must meet the feasibility standards described in Section 120.

Article XXXIV of the California Constitution requires advance voter approval of certain publicly funded and regulated low-income housing projects. Projects funded by MHP must either need to have Article XXXIV approval or be exempt from the need for this approval.

(5) Eligible Project Sponsors. Sponsors and borrowing entities may be organized on a for-profit or not-for-profit basis. Any individual, public agency or private entity capable of entering into a contract is eligible to apply, provided that they or their principals have successfully developed at least one affordable housing project. Sponsors of special needs projects are exempt from the requirement for previous development experience under limited conditions.

(6) Eligible Uses of Funds. MHP funds will be provided as permanent financing only, and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in Section 104. Program funds may not be used for supportive services. MHP funds must be attributable to "assisted" units (units with occupancy and rents limited by the MHP regulatory agreement), or to childcare, after-school care, and social service facilities integrally linked to the assisted units.

In addition to covering development costs, MHP funds may be used to capitalize project reserves, including rent subsidy reserves for extremely low-income households. See Section 104A for details.

(7) Loan Terms, Limits and Security. Loans will have 55 year terms, and bear simple interest at the rate of 3% per year. For the first 30 years, annual interest payments will be required in the amount of 0.42% of the outstanding principal loan balance. The payment amount for the next 25 years will be set by HCD in year 30, and will be the minimum amount necessary to cover HCD's monitoring costs. Unpaid principal and accrued and deferred interest will be due at the end of the loan term.

The maximum loan per project is $4,500,000. The maximum loan amount per "restricted" unit is a function of unit size, location, and affordability level. Per-unit limits are shown in Attachment 1.

MHP loan documents will include a promissory note, deed of trust and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, and amortizing loans from institutional lenders and the federal government. MHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, unless the amount of the local loan is at least twice the amount of the MHP loan.

(8) Rent and Occupancy Limits. Projects may include units that are "restricted" (subject to long-term rent and income limitations imposed by MHP or other public funding agency), "assisted" (subject to rent and income limitations imposed by MHP), and non-restricted (non-regulated) units. Assisted unit rent and tenant incomes will be restricted in accordance with the rent and income limits proposed by the project sponsor in their MHP application, with rents not exceeding 30% of the applicable income limit. The maximum possible income and rent limits are those set by the tax credit program, using its calculation methods: 60% of area median income, adjusted by household size, and 30% of 60% of area median income, adjusted by bedroom size. (These maximum limits are available on the web site of the California Tax Credit Allocation Committee (TCAC) at http://www.treasurer.ca.gov/CTCAC/ctcac.htm).

Assisted unit rent increases will be limited in accordance with the rules governing tax credit units, except that the annual increase rate may not exceed 150% of CPI. (During the past five years, the impact of the

150% cap would have been negligible except in Silicon Valley and a few other areas experiencing extraordinarily strong income growth.)

Where the project receives Section 8 or other rental assistance subsidies, "rent" is defined as the tenant's contribution, rather than the contract rent level. Sponsors of this type of project will be required to continue the rental assistance as long as it is available. Projects with rental subsidies must also be feasible with 50% of area median income rents in the event the rental assistance is terminated.

(9) Prevailing Wage Requirements. Projects receiving assistance under this NOFA are subject to state prevailing wages law, as set forth in Labor Code section 1720 et. seq.

(10) Other Limitations. Net developer fees are limited in accordance with the schedule shown in Section 114. Distributions to the sponsor out of operating income (including payment of asset / partnership management fees) are also limited in accordance with Section 114. Deferred developer fees are payable from operating income in excess of the normal limit on distributions under certain conditions.

(11) Special Needs Populations. Sponsors of projects serving special needs populations must have a specific, feasible plan for delivery and funding of these services. They must also be very careful to avoid violation of laws barring housing discrimination. HCD will review proposed tenant selection criteria for potential violations of these laws. It may condition funding on the elimination of restrictions that it believes to be impermissible, or reject an application where it determines that compliance with applicable law is not feasible.

As a general rule, tenant selection criteria that have the effect of discriminating against protected classes, such as those based on race, color, religion, sex, familial status, disability, national origin and sexual orientation, are prohibited. On the other hand, housing providers may establish reasonable selection criteria that are rationally related to the services performed and the facilities provided. The determination of whether tenant selection criteria are reasonable and whether the services and facilities are rationally related depends on several factors, including the specific needs of the targeted population, the nature and extent of the services and facilities provided, and sources of funding, other than funds from MHP, for such services and facilities. For example, a sponsor proposing to serve tenants with a particular disability may not be able to justify excluding persons with other disabilities having similar needs. Other than the ban on discrimination against protected classes, there are often few bright line rules to help special needs sponsors avoid illegal discrimination and each proposal must be analyzed on its own facts.

This is a very complex and in many ways unsettled area of law. Special needs sponsors are encouraged to seek professional advice if there is any doubt that their proposal may run afoul of non-discrimination and fair housing. A useful resource is *Between the Lines, A Question and Answer Guide on Legal Issues in Supportive Housing*, recently published by the Corporation for Supportive Housing. This document is available online at www.csh.org.pub.html or by calling the publisher at (510) 251-1910.

As time permits, MHP staff is available to assist potential applicants prior to application submission in determining whether their proposal raises possible discrimination issues.

In evaluating tenant selection criteria for special needs applications, HCD will first examine whether the criteria result from federal or state funding, as an indicator of legislative authorization. It will then review other aspects of the selection criteria, the services and facilities proposed to meet the needs of the targeted group and the proposed sources of other funding. If an applicant disagrees with HCD's determination, it may seek an alternate opinion from the California Department of Fair Employment and Housing (DFEH). HCD will defer to DFEH's opinion. Please be advised that a proposal may have substantial discrimination problems even though it targets a group specifically listed in the definition of special needs populations in section 101.

(12) Project Section Criteria. The criteria that will be used to competitively score projects are described in Section 121, and summarized below. In assessing whether a project is at risk, MHP will use the same standards as TCAC (See TCAC's regulations, Section 10325(g)(5), available on their web site as identified above).

Criterion	Max. Pts.	
Serve lowest income levels.	35	Attachment 2 shows the income levels referenced in the guidelines.
Project addresses most serious local needs.	15	
Development and ownership experience.	20	
Percentage of units for families or special needs populations.	35	"Special needs populations" are defined in Section 102. At-risk projects receive full points in this area.
Leverage	20	
Readiness	15	
Total	140	

(13) Geographic Set-Asides. MHP's enabling statute requires the program to "ensure a reasonable geographic distribution of funds." To prevent an extreme imbalance in funding, no less than $27 million of the $60 million offered under this first NOFA shall be awarded to projects in Southern California, no less than $18 million shall be awarded to projects in Northern California, and no less than $6 million shall be awarded to projects in rural areas. Later NOFAs may specify other set-asides or offer bonus points, if needed to improve on the geographic distribution of early awards.

For the purpose of these set-asides, Southern California includes the counties of San Luis Obispo, Kern, San Bernardino, and all counties to the south. Northern California includes all other counties of the State. "Rural" is defined to be consistent with the definition used by TCAC for the tax credit program, and a list of rural areas can be found in TCAC's Application Supplement, available from the department.

(9) Important Legal Matters. HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify all interested parties. This NOFA provides a partial summary of the MHP guidelines as amended. In the interest of brevity, it does not cover many aspects of those guidelines, some of which may be of critical importance to individual projects. For this reason, applicants are urged to carefully review the amended guidelines before submitting applications.

(10) Application Procedures. Applications must be on forms provided or approved by HCD. Application forms must not be modified. A complete original application, plus one copy, must be received by the Department no later than 5:00 P.M. on Friday, March 30, 2001. No facsimiles, late applications, incomplete applications, or application revisions will be accepted. Applications must meet all eligibility requirements upon submission. Applications having material internal inconsistencies will not be rated and ranked.

Applications forms will be available onor about March 1, 2001. To receive an application package, please visit HCD's web site after this date, or contact Anne Gilroy at (916) 327-2886 or agilroy@hcd.ca.gov. Applications must be delivered to one of the following addresses:

U.S. Mail

Anne Gilroy
Department of Housing and Community Development
Division of Community Affairs
P.O. Box 952054
Sacramento, CA 94252-2054

Private Carrier

Anne Gilroy
Department of Housing and Community Development
Division of Community Affairs
1800 Third Street, Room 390
Sacramento, CA 95814

It is the applicant's responsibility to ensure that its application is clear, complete and accurate. After the application deadline, MHP staff may request clarifying information provided that such information does not affect the competitive rating of the application. No information will be solicited or accepted if this information would result in a competitive advantage to an applicant. No applicant may appeal HCD staff's evaluation of another applicant's application.

Questions should be directed to the MHP program staff at (916) 327-2886.

Thank you for interest in the Multifamily Housing Program.

Sincerely,

William J. Pavão
Acting Deputy Director

Attachments:

1) Per-Unit Loan Limits
2) Income Limits and Rents based on State Median Income